

February 10, 2010

E-Filed

Hon. Judge Susan Illston
450 Golden Gate Avenue
Courtroom 10, 19th Floor
San Francisco, California 94102

Re: *Otsuka, et al. v. Polo Ralph Lauren Corporation, et al.*

U.S. District Court Case No. C-07-02780-SI

Pretrial Conference: February 23, 2010

Dear Judge Illston:

I am writing on behalf of Plaintiffs regarding our preparation of the jury instructions for the March 8th trial. Jury instructions were due to be exchanged and filed on Monday. We were unable to comply with this filing date for the reasons described below. I'm writing to request the Court's permission to serve and file the parties' proposed jury instructions on Wednesday, February 17th. This should give the parties sufficient time to work out some of our differences regarding the instructions.

We have been working diligently and cooperatively with defendants' counsel on trial preparation and filed our extensive Joint Pretrial Statement on Monday, February 8th. Polo has provided us with its proposed jury instructions and we have responded with our objections. We have agreed on most of the general instructions, but have several concerns regarding Polo's proposed special instructions.

We have also been working hard to finalize our proposed special instructions and have kept in close contact with Polo's counsel regarding our progress. While we had anticipated providing Mr. Goines with our proposed instructions on Monday, that proved to be impossible. My co-counsel, Nancy Hudgins, underwent hand surgery last week and was unavailable. Then, last night at about 11:00 p.m., as I was finalizing our proposed jury instructions, my computer "crashed" and I lost more than half of the document. We have not been able to recover it.

We will be able to provide Polo's counsel with our proposed instructions on Friday, February 12th for their review and objections. We should be able to file our joint and separate instructions and objections no later than Wednesday of next week, February 17th. I have



conferred with Mr. Goines and he indicates he has no objections to this request provided we have our proposed instructions to him on Friday.

We appreciate your consideration.

Very truly yours,

Patrick R. Kitchin

Cc: William Goines, Esq.